

### **REMARKS**

Applicants have amended the specification and claims 1-4, 6, and 8-12 as required by the Examiner. Applicants also amended claim 4 to more appropriately define the present invention. Claims 1-12 remain pending and under current examination.

#### **Regarding the Office Action:**

In the Office Action, the Examiner objected to the specification and claims 1-4, 6, and 8-12; rejected claims 4-6, 11, and 12 under 35 U.S.C. § 112, second paragraph, as being indefinite; rejected claims 1, 7, and 8 under 35 U.S.C. § 102(a) as being unpatentable over an English translation of Japanese Patent Application Publication No. 2003-173965 to Inenami (“Inenami”); and objected to claims 2, 3, 9, and 10 as being dependent upon a rejected base claim, but allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants traverse the rejections for the following reasons.<sup>1</sup>

#### **Objection to the Specification and Claims 1-4, 6, and 8-12:**

The Examiner objected to the specification and claims 1-4, 6, and 8-12 because of informalities. In response, Applicants have amended the specification and claims 1-4, 6, and 8-12, to make the Examiner-required changes. Accordingly, Applicants request withdrawal of the objection to the specification and claims 1-4, 6, and 8-12.

#### **Rejection of Claims 4-6, 11, and 12 under 35 U.S.C. § 112, Second Paragraph:**

The Examiner alleged that these claims are “indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention” (Office Action, p. 3).

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<sup>1</sup> The Office Action may contain statements characterizing the related art, case law, and claims. Regardless of whether any such statements are specifically identified herein, Applicants decline to automatically subscribe to any statements in the Office Action.

In response, Applicants note that “[t]he fact that claim language, including terms of degree, may not be precise, does not automatically render the claim indefinite under 35 U.S.C. 112, second paragraph. [...] Acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification.” M.P.E.P. § 2173.05(b).

Nevertheless, to advance prosecution, Applicants have amended claim 4 to recite:

in a case where two character patterns are sequentially transferred, when a first deflection distance of the beam deflected by one of the shaping deflector and the objective deflector and a deflection distance of the beam deflected by the other deflector and a second deflection distance converted to the deflection distance ~~of the beam~~ deflected by the one deflector are compared with each other in accordance with the correlation, a longer one of the deflection distances is selected as the parameter (amendments shown).

The amendments to claim 4 overcome the 35 U.S.C. § 112, 2nd paragraph, rejection.

Applicants respectfully remind the Examiner that “[s]ome latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire.” M.P.E.P. § 2173.02.

Furthermore, “[d]efiniteness of claim language must be analyzed, not in a vacuum, but in light of: (A) [t]he content of the particular application disclosure; (B) [t]he teachings of the prior art; and (C) [t]he claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.” Id. The amendments just discussed demonstrate that the pending claims meet the threshold requirements of clarity and precision.

Applicants submit that the reasoning presented above, together with the amendments to claim 4, overcome the 35 U.S.C. § 112, 2nd paragraph, rejection. Accordingly, Applicants request withdrawal of the rejection of claims 4-6, 11, and 12, and an indication that they are now allowed.

**Rejection of Claims 1, 7, and 8 under 35 U.S.C. § 102(a):**

Applicants respectfully traverse the rejection of claims 1, 7, and 8 under 35 U.S.C. § 102(a) as unpatentable over Inenami. Applicants respectfully disagree with the Examiner's arguments and conclusions.

In order to properly establish that Inenami anticipates Applicants' claimed invention under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Inenami does not disclose each and every element of Applicants' claimed invention, despite the Examiner's allegations.

Independent claim 1 recites, in part,

selecting first or second values as a parameter to transfer one character pattern and then transferring a subsequent character pattern, the first value regarding performance of a shaping deflector which deflects the charged particle beam so that the charged particle beam is applied to an arbitrarily character aperture formed in a CP (character projection) aperture mask and a character beam having the shape of the character aperture is thereby created, and the second value regarding performance of an objective deflector which deflects the character beam so that the character beam is applied to an arbitrarily position of the deflection region of the specimen; and determining the exposure sequence of the character patterns in the deflection region in accordance with the selected parameter.

Thus, independent claim 1 calls for (i) selecting one of a first value regarding performance of a shaping deflector and a second value regarding performance of an objective deflector as a parameter, and (ii) determining an exposure sequence of character patterns in a

deflection region in accordance with the selected parameter. Independent claim 8 also contains similar recitations.

By implementing the claimed invention, long deflections can be reduced, and thus a deflection distance per shot of each deflector can be reduced. Consequently, the present invention has the effect of suppressing positional deviations of shots, beam-shaping errors and the like, improving the drawing precision, and improving the production yield.

In contrast to the claimed invention, Inanami describes (i) selecting characters on a CP (character projection) aperture mask such that the deflection path with the shortest distance is selected, and (ii) sequentially exposing a standard cell corresponding to the selected character pattern. In Inanami, characters on a CP (character projection) aperture mask are always selected such that the deflection path with the shortest distance is selected. Thus, Inanami does not disclose selecting one of the first value regarding performance of a shaping deflector and the second value regarding performance of an objective deflector as a parameter, according to claims 1 and 8.

Inanami therefore does not anticipate Applicants' independent claims 1 and 8. Independent claims 1 and 8 are therefore allowable, for the reasons argued above, and dependent claim 7 is also allowable at least by virtue of its dependence from allowable base claim 1. Therefore, the improper 35 U.S.C. § 102(a) rejection of claims 1, 7, and 8 should be withdrawn.

**Objected-to Claims 2, 3, 9, and 10:**

Since Applicants have demonstrated above that independent claims 1 and 8 are allowable, dependent claims 2, 3, 9, and 10 are also allowable at least by virtue of their respective dependence from allowable base claim 1 or 8. Applicants request withdrawal of the objection.

**Conclusion:**

In view of the foregoing, Applicants request reconsideration of the application and withdrawal of the rejections. Pending claims 1-12 are in condition for allowance, and Applicants request a favorable action.

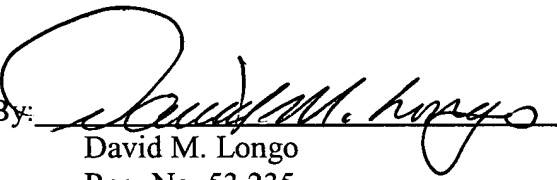
If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: November 3, 2005

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